



## STILLAGUAMISH TRIBE OF INDIANS

*True to Their Traditions as "Canoe Indians"*

February 3, 2012

Gerry O'Keefe  
Puget Sound Partnership  
326 East D Street  
Tacoma, WA 98421

RE: Action Agenda update

Dear Mr. O'Keefe,

The Stillaguamish Tribe would like to make some suggestions regarding updates to the strategies outlined in the Puget Sound Partnership's Action Agenda. They are listed below by section.

*A1. Focus land development away from ecologically important and sensitive areas.*

The Puget Sound Characterization is intended to identify areas where development might be appropriate, and areas that should be preserved and restored from the impacts of development. Though this may be an admirable goal, we have some reservations about how this will be implemented at the local level, and particularly how much influence the Characterization will have. Prior to the finalization of the plan, we request that representatives from the Washington State Department of Ecology, the Washington Department of Fish and Wildlife, or the Puget Sound Partnership who are fluent and extensively knowledgeable on the implications of the document, present the local results to the tribes and the local watershed groups for comment.

*A1.4 Strengthen and streamline existing local, state, federal permitting programs.*

The Stillaguamish Tribe encourages the Puget Sound Partnership to act as a third party facilitator to evaluate local, state and federal permits required for restoration projects and assist with streamlining that effort. Though the Partnership is a state agency, it has no regulatory influence in and of itself, and so it is the perfect conduit for a thorough analysis of permitting procedures.



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### *A2.1 Obtain full or partial property interests for lands at risk of conversion or impacts from human activities.*

Protecting lands prior to degradation is ecologically and financially preferable to restoring already degraded lands. Also restoration of private land is often unrealistic given landowner constraints and future uncertainties of ownership. In order to ensure permanent protection, ecologically sensitive land must be obtained by a public entity, an environmental non-profit of high reputation or a tribe. Recently, attempts by the Stillaguamish Tribe to purchase ecologically important properties have been frustrated by several political barriers.

The first is an opinion by some local governments that environmental regulations are currently ensuring no further degradation to ecologically sensitive lands, and therefore permanent protection through acquisition is unnecessary. However, there is no accountability, or requirement to prove these regulations are, in fact, effective. Based on our observations in the Stillaguamish, habitat degradation is ongoing (both permitted and unpermitted), despite these regulations. The burden of proof should lay on the shoulders of the regulatory jurisdictions to definitively prove that their regulations are not resulting in continued habitat degradation. We request that PSP work with the Governor to enact legislation that requires periodic evaluation of the effectiveness of regulations and that these findings be distributed widely to the public. In the meanwhile, the Natural Resources Department of the Stillaguamish Tribe is planning a study over the next several years to determine if local environmental regulations are allowing continued cumulative degradation to critical areas. However, the scope of this study is limited to the Stillaguamish watershed, and as each watershed is different similar studies should be performed Puget Sound wide. The Stillaguamish Tribe encourages the Puget Sound Partnership to provide the resources required for all watersheds to perform a similar study, and if possible, the expertise and the guidelines for these studies so cross-jurisdictional comparisons can be made.

The second political barrier we have encountered is that acquisitions are not currently prioritized for public funding over restoration projects. Restoration projects are very important; however, there should be at least one funding source that is intended for acquisition with the purpose of permanent ecological protection. The Stillaguamish Tribe requests that Puget Sound Partnership work with the Governor's office, the Recreation and Conservation Office and other applicable funding agencies to develop prioritization for funding sources and streamline the funding process.

Finally, the Stillaguamish Tribe has received resistance to acquisitions of particular parcels of ecologically essential property because of the perception that the value of modern agriculture supersedes that of cultural or ecological purposes. Fish and shellfish are a staple in the Tribal diet, and are central the Tribe's culture, so their production and therefore their habitat preservation and restoration is considered by the Tribe to be a form of farming every bit as important as modern agricultural crops.



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The tension between the agricultural community and salmon interests are nearly universal throughout the Puget Sound. Snohomish County is currently facilitating an effort called the Sustainable Land Strategy, of which we are an active participant. Until such time as political differences are eliminated, the Puget Sound Partnership can provide its assistance by bridging the gap between the needs of salmon and the needs of farmers. Many parcels of land can be used for both purposes, however many funding sources preclude this. The Partnership can help by working with funding sources to allow greater flexibility and room for new innovation. Also, as per A2.1 NTA 1, the Partnership can ensure that acquisitions for salmon habitat are never considered in conflict with the Action Agenda, even if that project removes acres of land from agriculture.

*A2.1 NTA 2 PSP will convene a task force to develop a funding mechanism to rapidly acquire properties with high ecological value and imminent risk of conversion by 2012.*

We are glad to see the prioritization of this near term action, as it has been listed in the Action Agenda for completion since 2008 and is a potentially very useful and important strategy. The Stillaguamish Tribe would like to request that the Partnership keep local watershed groups apprised of the work plan of the task force, including the definition of "high ecological value" and "imminent risk". We also request that the task force maintain open lines of communication with local representatives so that local needs can be met, and if appropriate, that local representatives serve as members.

*A5 Protect and restore floodplain function – A5.1 Improve data and information to accelerate floodplain protection and flood hazard management.*

Of all the limiting factors identified in the Stillaguamish Chinook recovery plan, the floodplain and the estuary are perhaps the most degraded when compared to historical conditions. These low elevation fish habitats were primarily diked and drained for agricultural use. In recent years, rural residential development has begun to encroach on the floodplain. This has coincided with increasing peak flows, putting more people and infrastructure in harm's way. While the Tribe is working to acquire and restore floodplain and estuary habitats, we are facing political resistance as described in A2.1. Without significant restoration of floodplain function, the recovery of Stillaguamish Chinook will remain impossible.

There is no lack of data or information on the importance of floodplain function as salmon habitat, but rather a lack of political will to protect and restore these lands. The rivers need a corridor to shift and move, and behave like rivers once again. Lands must be purchased and protected, held in conservancy by public, tribal, and private entities. Infrastructure must be removed from the floodplain and further development prohibited. Without these measures, our salmon recovery efforts will be incomplete.



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We encourage the Puget Sound Partnership to utilize local knowledge when pursuing this strategy. Many groups including local jurisdictions, NGOs and especially tribes have existing data that could be useful to this effort.

### *A5.1 NTA 1 The PSP will convene a Puget Sound Floodplain Protection and Recovery Policy Team*

The Stillaguamish Tribe strongly encourages the Partnership when convening this Policy Team to work with the Army Corps of Engineers. The Corps is above many of the regulations that govern new bank armoring and replacement armoring installation. Miles of armored bank is one target in the Stillaguamish watershed where we continually lose ground compared with our recovery goal. Under the auspices of emergency the Army Corps is allowed to supersede best available science and is not required to consider soft armoring techniques. We hope that through this Policy Team, the Partnership can work closely with the Corps to align the goals of human health and property protection with salmon recovery.

### *A6 Implement and maintain freshwater and upland restoration projects*

We appreciate the strategies outlined in this section with the intent of encouraging restoration projects for the benefit of salmon and wildlife habitat. Another strategy that we would like the Partnership to include is the elimination or easing of match requirements for public money. We understand that multiple funding sources show a commitment to the project. However, obtaining two or more funding sources often delays a project and requires significant staff time that could be better spent implementing additional projects. As an independent agency reporting directly to the Governor, the Partnership is in a unique position to evaluate funding sources impartially and recommend changes to this requirement directly to the Governor.

### *A8.1 Update Puget Sound instream flow rules to encourage conservation*

We are particularly interested in the effectiveness of the Instream Flow Rules due to the common low flow events the Stillaguamish river experiences in the late summer months. Currently, there appears to be no accountability for the rules. It's unclear if the rules are working and if their effect is being measured and documented. The Stillaguamish Tribe encourages the Puget Sound Partnership to work with the Washington State Department of Ecology to establish measurable goals for the Instream Flow Rules and a method of accountability toward those goals.



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### *A8.2 Decrease the amount of water withdrawn or diverted and per capita water use.*

The Stillaguamish Tribe is deeply concerned about the effect exempt wells have on instream flows. We encourage the Partnership to work closely with the Washington State Department of Ecology to implement a solution to this growing problem.

Our Natural Resource Department has been undergoing a process to design and build a new office facility. During this process, innovative new technologies have been incorporated into the design. One such technology that was discussed and thoroughly investigated was a rainwater catchment system for potable water. Rainwater catchment systems are loosely allowed for residential gray water; however, when the attempt was made to cross the boundary between residential and commercial, and to utilize the water for not only gray water but potable water as well, it became apparent that there were too many unknowns surrounding the system to get it approved for use. To our great disappointment, given the current regulatory environment, it is essentially impossible to implement this innovation, despite its potentially significant impacts on summer ground water withdrawals. While in the process of investigating this technology, we discovered that the new Bullitt Foundation building in downtown Seattle had encountered similar obstacles. The Stillaguamish Tribe encourages the Partnership to develop models for rain water catchment systems in new development, especially in areas where instream flows and exempt wells have negative implications for fish, in order to study any potentially adverse impacts on ground water or instream flows. Should these models show no such impacts, we encourage further action that would require public water utility companies to manage rain water catchment projects that are proposed in the future.

### *A9 Protect and recover salmon.*

There is an effective system currently in place on the local level for salmon recovery. The Lead Entity program implements and manages the salmon recovery plans for each watershed. The funding for the Lead Entity program should be maintained and local salmon recovery plans should be funded and implemented at a level able to meet the 10 and 50 year goals. Current funding levels are only about 25% of what is actually needed to stay on pace to meet our targets, and we are falling behind every year. Combined with the increases in population and the associated development pressures, the lack of funding will only become more acute with time as land costs increase. The Stillaguamish Tribe requests that the Partnership include the implementation of the Puget Sound Chinook Salmon Recovery Plan, the recovery plans for each WRIA, and the three year work plans as a strategy.



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*B2.2 Prevent new shoreline armoring except where it is required to protect existing infrastructure from imminent risk.*

Please see our comments under A5.1 NTA 1 which apply to this section as well. Again, we can't stress enough what a difficult problem shoreline armoring is. Log jams and soft armoring techniques should be utilized to encourage Chinook salmon habitat and efforts must be made to remove infrastructure from the floodplain.

*B2.6 Give permitting agencies and local governments the tools and resources they need to ensure protection of nearshore and marine environments.*

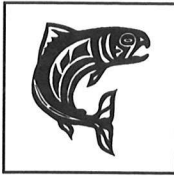
Aside from the question of whether or not current regulations are providing adequate protection for these environments, another significant issue is enforcement. Many local jurisdictions lack the funding to effectively enforce regulations at the current level. Staffing and equipment shortages, more common in our struggling economy, mean that enforcement personnel lack the resources needed to ensure the proper permits are being issued and that permits that are issued are being properly adhered to. The Stillaguamish Tribe encourages the Partnership to provide local jurisdictions the resources necessary to perform these vital functions.

Additionally, most permitting violations are handled in the criminal court system along side serious violent cases. Given the sharp contrast, environmental law violators are often given minor penalties that don't serve as a deterrent. Furthermore, citizen complaints of these infractions cannot be given anonymously. Given the dynamic among rural neighbors, the lack of anonymity more often than not prevents the infraction from being reported and therefore prevents effective enforcement. The Stillaguamish Tribe encourages the Partnership to introduce legislation that requires these cases to be handled in civil court, and establishes a method for anonymous citizen complaints.

*C1 Reduce and control the sources of pollution to Puget Sound*

There is currently no mention of the Mussel Watch Program, a 20+ year effort by NOAA and local partners to monitor contaminants in blue mussels in Puget Sound. There are data on over 100 contaminants for a variety of sites throughout Puget Sound through the National Status and Trends: Mussel Watch Program. These data are worth considering and are available to any agency. The Stillaguamish Tribe encourages the Partnership to utilize this data when analyzing the trends of contaminants in Puget Sound, and to further support this program by financially and politically ensuring its continuation.

It is important to note that there is no way to ensure that certain contaminants are below threshold



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levels if the particular threshold of impact remains unknown. The difficulty with most of the so called "emergent contaminants" is that there are no established thresholds on which to base regulations. Particularly when it comes to endocrine disruption, many compounds have not been tested for this type of hormonal disturbance and for those that have, it is unknown what concentration can trigger that effect in different organisms. We encourage the Partnership to establish a near to mid-term action that emphasizes the scientific identification of threshold levels, and the establishment of regulations surrounding those thresholds.

*C1.1 NTA 3 ....In 2012, Ecology plans to revise the state's sediment quality standards and begin the process to revise the water quality standards to reflect up-to-date information about rates of fish and shellfish consumption in Washington.*

Chinook and other salmon, as well as shellfish, are a culturally essential component of the diet of the Stillaguamish people. As such, Tribal members tend to consume fish and shellfish at much higher rates than the general public. We encourage the Partnership to work with the Washington Department of Ecology and the Northwest Indian Fisheries Commission to establish water quality standards that allow for safe consumption of these fish at more appropriate levels than are currently established. Greater water quality standards can only be a good thing for the health of all people and wildlife. Though increasing these standards may be unpopular or politically difficult, human health should be a paramount priority.

### *C2.1 Manage urban runoff at the basin and watershed scale*

Although the use of Watershed Characterization efforts are important to help prioritize restoration efforts, it is vital that they not trump treaty obligations by the state. Restoration efforts should not be limited in areas that may be recognized as suitable for development if those areas are needed to provide necessary habitat to meet those treaty obligations. The Stillaguamish Tribe compels the Partnership to ensure Watershed Characterization efforts are not favored in places that directly impact treaty rights.

### *C2.3 Fix problems caused by existing development*

We encourage the Partnership to help promote and work towards the development of stormwater systems that can address emerging contaminants that can be harmful to aquatic life, and especially ESA listed salmon. Please see comments under C1.





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### *C2.5 Provide focused stormwater-related education and training*

We are particularly concerned about homeowner associations (HOA) that have onsite stormwater systems. As subdivisions are becoming more prevalent in our watershed, so too are retention ponds and other onsite stormwater systems designed to treat and store surface water runoff from neighborhoods. These systems are not always maintained properly. The Stillaguamish Tribe encourages the Partnership to actively support or engage in outreach efforts to local HOAs and provide the necessary resources and training to ensure proper maintenance and therefore better water quality.

### *D1 Provide the leadership frameworks to guide the Puget Sound recovery effort and set action and funding priorities.*

When the Puget Sound Partnership was founded, it was our hope that this new agency, not beholden to any other and reporting directly to the Governor, would be able to transcend agency politics and become a true advocate for the Puget Sound ecosystem. We were hoping that the Partnership would align the efforts of local and state jurisdictions, eliminating common barriers to recovery and streamlining recovery efforts that were consistent with Action Agenda strategies. Unfortunately, we have not so far found this to be the case.

As you go through the process of updating the Action Agenda, we encourage you to think larger than the individual strategies you have identified. We encourage you to incorporate the goal of becoming a true advocate for Puget Sound. Search out and eliminate barriers to recovery that are under state or federal jurisdiction, provide additional funding that local NGO's, tribes and local jurisdictions alike can qualify for, and find landscape scale solutions that will solve multiple Action Agenda strategies simultaneously.

We hope these comments will prove useful for the update and implementation of the Action Agenda. If you have questions or would like further clarification of these comments, please contact the Stillaguamish Tribe's Environmental Manager, Pat Stevenson, at [pstevenson@stillaguamish.com](mailto:pstevenson@stillaguamish.com) or 360-631-0946.





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The year 2020 is only a few short salmon generations away. Our actions today are more important than what we can accomplish tomorrow.

Regards,

A handwritten signature in blue ink, which appears to read "Shawn Yanity". The signature is fluid and cursive.

Shawn Yanity  
Tribal Chair and Fisheries Manager  
Stillaguamish Tribe of Indians